IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: C. Hudson Hendren III	Art Unit	: 2155
Serial No.	: 10/045,159	Examiner	: K. Dinh
Filed	: January 15, 2002		
Title	: PROVIDING A NETWORK COMMUNICATION STATUS DESCRIPTION		
	BASED ON USER CHARACTERISTICS		

Mail Stop Appeal Brief - Patents
Commissioner for Patents
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BRIEF ON APPEAL

(1) Real Party in Interest

America Online, Inc. is the real party in interest.

(2) Related Appeals and Interferences

There are no related appeals or interferences.

(3) Status of Claims

Claims 24-54 are pending in this application, with claims 24, 35, and 38 being independent.

(4) Status of Amendments

An amendment in reply to the action dated October 8, 2003 was filed on March 5, 2004 and is pending entry by the Examiner. The attached claim set reflects entry of the amendment, which merely involves the renumbering of a claim and the correction of a misspelling in another claim.

(5) Summary

This application relates to leveraging a user's technical proficiency as a basis for providing a message. *See, e.g.*, Application, page 5, line 25-page 6, line 7. Several messages are maintained, including at least a first message that corresponds to a first level of technical proficiency and a second message that corresponds to a second level of technical proficiency.

Applicant : C. Hudson Hendrel
Serial No. : 10/045,159
Filed : January 15, 2002
Page : 2 of 12

Attorney's Docket No. 06975-036002 / Personalization
04-CON

Application, page 8, lines 11-22; figure 6. Data related to a user's technical proficiency is received. *See* Application, page 7, lines 18-23. A message from the plurality of messages is selected and provided, for example, to a computer. *E.g.*, Application, page 9, lines 23-28. In one implementation, the message is selected based on the data related to the user's technical proficiency. *E.g., Id.*

The following summarizes a description from within the specification that is illustrative. A user submits a web browser request for a web page to a network server. Application, page 9, lines 15-16. The request is received by a proxy server, which forwards the request to the network server. Application, page 9, lines 16-17. Normally, the network server then retrieves the requested web page and sends it to the proxy server, which forwards the requested web page to the web browser. *See* Application, page 9, lines 18-23.

However, at times, the server may not return the requested web page. *See* Application, page 5, lines 5-15. Rather, the server may return a status description indicating why the web page was not returned. *See Id.* For instance, if the user mistypes the URL of the web page, then the mistyped URL may point to a web page that does not exist on the server. *See Id.* In such a case, the server may return a status description indicating that the web page was not found. *See* Application, figures 4 and 5. The form of the status description may vary, according to the invention, based on technical proficiency of the requesting user. *Id.*

For example, if the status indicator merely indicates that a "404 error" has occurred, less technical users may not understand that the file was not found. *Id.* Such users therefore would receive a more detailed or explanatory status description that is provided based on their technical proficiency.

More particularly, a status description database includes multiple descriptions of a status code, where each description differs in the technical information that is provided. Application, page 8, lines 11-22; figure 6. For instance, for a 404 status description, a first description in the database corresponds to users who are more technically proficient and simply states "HTTP Protocol Error 404." Application, page 5, lines 28-30. A second description in the database corresponds to users who are less technically proficient and states "The file you entered doesn't exist. Look for typos and try re-entering the location." Application, page 5, line 30-page 6, line 5. The second description also may include hyperlinks to technical support sites. *Id.*

Applicant : C. Hudson Hendren
Serial No. : 10/045,159
Filed : January 15, 2002
Page : 3 of 12

Attorney's Docket No. 06975-036002 / Personalization
04-CON

Then the proxy server receives the 404 status description from the server, the proxy server selects the appropriate description based on received data related to the user's technical proficiency. Application, page 9, lines 23-27. For example, if the data received by the proxy server indicates that the user has a relatively high level of technical proficiency, then the first description is selected and sent to the web browser for display to the user. Application, page 5, lines 28-30. On the other hand, if the data received by the proxy indicates that the user has a relatively low level of technical proficiency, then the second description is selected and sent to the web browser for display to the user. Application, page 5, line 30-page 6, line 5.

(6) Issues

Would the subject matter of claims 24-54 have been obvious over U.S. Patent No. 6,105,027 (Schneider) in view of U.S. Patent No. 6,289,372 (Vyaznikov)?

(7) Grouping of Claims

For purposes of the issues being briefed herein, the claims stand or fall together.

(8) Argument

The rejections under 35 U.S.C. § 103(a) should be reversed because neither of U.S. Patent No. 6,105,027 (Schneider) or U.S. Patent No. 6,289,372 (Vyaznikov) describe or suggest providing a message based on a user's technical proficiency and, therefore, Schneider and Vyaznikov, taken as a whole, do not suggest the claimed subject matter.

Independent claims 24, 35, and 38 are generally directed to "providing messages based on a user's technical proficiency," as recited in the preamble of claims 24, 35, and 38. This is carried out in part by "receiving data related to a user's technical proficiency," as recited in the body of independent claims 24 and 38, or "a data receiver arranged and structured so as to receive data related to a user's technical proficiency," as recited in the body of claim 35.

To establish *prima facie* obviousness of a claimed invention, *all* the claim limitations must be taught or suggested by the prior art. *See In re Angstadt*, 537 F.2d 498, 501, 190 USPQ

Applicant : C. Hudson Hendren
Serial No. : 10/045,159
Filed : January 15, 2002
Page : 4 of 12

Attorney's Docket No.: 06975-036002 / Personalization
04-CON

214, 217 (C.C.P.A. 1976). The combination of Schneider and Vyaznikov fails to establish such a *prima facie* case of obviousness, as neither Vyaznikov nor Schneider, either singly or in combination, disclose or suggest providing messages based on a user's technical proficiency by "receiving data related to a user's technical proficiency," as recited in independent claims 24 and 38, or by employing "a data receiver arranged and structured so as to receive data related to a user's technical proficiency," as recited in independent claim 35.

Recognizing that Schneider does not disclose data related to a user's technical proficiency (*see* Final Office Action, page 6, lines 13-14), the Examiner cites to Vyaznikov as disclosing that "the data information [is] based on level of technical efficiency" and contends that it would have been obvious to combine Vyaznikov with Schneider to obtain the claimed subject matter. Final Office Action, page 6, lines 14-19. Appellant respectfully disagrees.

Initially, Appellant notes that the claims recite technical *proficiency*, not technical *efficiency* (as quoted in the previous sentence). For purposes of this argument, therefore, Appellant assumes that the Examiner meant proficiency instead of efficiency.

Simply, Vyaznikov does not describe providing a message based on <u>a user's technical proficiency</u>. Vyaznikov describes "a method of transmitting and processing group messages in an electronic mail system." Vyaznikov, Col. 1, Lines 7-8. Vyaznikov's method seeks to solve a problem encountered when a single e-mail is sent to multiple recipient's (e.g., multiple e-mail addresses are listed in the "To:" line of an e-mail). According to Vyaznikov, in prior methods, the initial e-mail addressed to multiple recipients is duplicated and a copy of the e-mail is sent to each recipient; however, "only the entry corresponding to the initial message [i.e., the initial e-mail] is maintained in the catalogue of initial messages [e.g., a "sent folder"]." Vyaznikov, Col. 1, Lines 21-29. The problem with this, according to Vyaznikov, "is that it is not possible to obtain ready information on the current state of each message which has been sent to one of the addressees among the many indicated in the catalogue of initial messages, for example, that this message has been delivered to a concrete addressee, has been examined by the addressee, etc." Vyaznikov, Col. 1, Lines 35-40.

Thus, Vyaznikov is designed to address an issue said to occur when a user addresses an e-mail to multiple recipients and requests that the system to return a status e-mail to the user indicating when the e-mail is delivered to the recipients or read by the recipients. In this case, a

single copy of the e-mail is saved in, e.g., the user's sent folder. As each recipient receives or reads the e-mail, a status e-mail is sent from the recipient's system to the user's system. The status e-mail indicates, e.g., that the recipient has received the e-mail or read the e-mail. However, once the user has received a number of these status e-mails, it is difficult for the user to easily determine who has received or who has read the e-mail, i.e., it is difficult for the user to find the status of the e-mail sent to a particular recipient.

To solve this difficulty, Vyaznikov creates a multi-level catalogue for each of the initial messages (e.g., in the sent folder). Vyaznikov, Col. 3, Lines 51-54. The first level is the initial e-mail, including the address of each recipient. Vyaznikov, Col. 3, Lines 54-58. The second level includes a copy of the initial e-mail for each of the recipients. *Id.* That is, a copy of the initial e-mail is made for each recipient and listed under the initial e-mail. Thus, for example, if a user addresses an e-mail to recipient A and recipient B, the first level of the multilevel catalog contains the initial message, which includes the address information for recipient A and recipient B. The second level contains a first copy of the initial e-mail that includes the address of recipient A and a second copy of the e-mail that includes the address of recipient B. Within the second level, the first and second copies are accompanied by a field for status information. Vyaznikov, Col. 3, Lines 37-41. When a status message is received from recipient A's system, the status field for the first copy is changed to reflect the status of the e-mail sent to recipient A (e.g., delivered or read). Vyaznikov, Col. 4, Lines 21-29. Likewise, when a status message is received from recipient B's system, the status field for the second copy is changed to reflect the status of the e-mail sent to recipient B (e.g., delivered or read). *Id.* Similarly, a status field is associated with the first level, which is used to reflect the overall status of the e-mail (e.g., all e-mails have been read). Vyaznikov, Col. 4, Lines 30-39. In this manner, Vyaznikov is useful in achieving its purpose of allowing an e-mail sender to easily determine the status of the e-mail sent to a particular recipient and/or to sort or select subsidiary messages based on the status of the subsidiary message.

The method, in Vyaznikov's words, includes a sender "first form[ing] an initial message . . . which it is desired be sent to a plurality of addresses." Vyaznikov, Col. 3, Lines 33-34. "[A] set of subsidiary messages is formed from the initial message for each addressee." Vyaznikov, Col. 3, Lines 42-43. Each subsidiary message includes "an address field . . . a

Applicant : C. Hudson Hendre●
Serial No. : 10/045,159
Filed : January 15, 2002
Page : 6 of 12

Attorney's Docket No. 06975-036002 / Personalization
04-CON

unique identifier . . . and a [status] field indicating the state of the subsidiary message."
Vyaznikov, Col. 3, Lines 37-41.

Then, a "multilevel . . . catalogue of initial messages" is formed. Vyaznikov, Col. 3, Lines 51-54. The multilevel catalogue includes "a first entry on a first level which relates to the initial message (FIG. 2), and a plurality of entries on the second level (FIG. 2) which relate to the subsidiary messages." Vyaznikov, Col. 3, Lines 54-58. "Transmission of [the] subsidiary messages is carried out in step 4." Vyaznikov, Col. 3, Lines 58-60.

When a subsidiary message is received by a recipient, "a confirmation message [is formed] in which the . . . unique identifier of the received message is recorded and the [status field] characterizing the current state of the message . . . is additionally entered therein." Vyaznikov, Col. 3, Lines 61-67. The confirmation message (designated as a "status message") "is transmitted in step 7 to the sender of the initial message." Vyaznikov, Col. 4, Lines 3-4. When the status message is received, the unique identifier is compared to identifiers in the multilevel catalogue and "if a subsidiary message with the required unique identifier is detected in the catalogue of initial messages, the sender in step 13 derives [the status from] the obtained status message." Vyaznikov, Col. 4, Lines 21-25. "A corresponding entry . . . is made in the [status field of the subsidiary message with the matching unique identifier]." Vyaznikov, Col. 4, Lines 26-29.

"After the [status] fields of all the subsidiary messages are filled, the sender, on the basis of an analysis of the [status fields of the subsidiary messages,] forms data on the final state of delivery of the initial message and enters them in the [status field for the initial message] on the first level [of the multilevel catalogue]." Vyaznikov, Col. 4, Lines 30-36. The described method, according to Vyaznikov, "makes it possible to store and present information to a user on the current state of a message in respect of both each concrete address and the message as a whole," and to perform "different kinds of automatic processing—sorting, selecting, etc. according to features belonging to the subsidiary messages, and also according to final features characterizing the message as a whole with respect to all addresses." Vyaznikov, Col. 4, Lines 53-61.

In the above-described method, none of the received data (i.e., the initial message, the subsidiary messages, the unique identifiers, the status fields, and the status messages) relates to

Applicant : C. Hudson Hendre●
Serial No. : 10/045,159
Filed : January 15, 2002
Page : 7 of 12

Attorney's Docket No. ●06975-036002 / Personalization
04-CON

the use of a user's technical proficiency in providing a message as claimed. Vyaznikov itself does not indicate any relationship between these data items and a user's technical proficiency. Moreover, the Examiner's rejection provides no reasoning as to how any of these items are data related to a user's technical proficiency. Rather, the Examiner attempts to support a conclusory statement that "Vyaznikov discloses the data information based on level of technical efficiency" with general and sweeping reference to the following portions of Vyaznikov: Abstract; Figs. 1 and 2; Col. 2, Lines 20-63; and Col. 3, Line 29 to Col. 4, Line 61. Final Office Action, page 5, line 15. Finding no suggestion in Vyaznikov for using technical proficiency to provide messages, Appellant scheduled an interview with the Examiner. While the Examiner graciously agreed to the interview, it was not fruitful, as Appellant was not able to understand any basis for the Examiner's interpretation of Vyaznikov. Unable to ascertain a basis for the Examiner's interpretation of Vyaznikov, Appellant now raises these issues on appeal.

In the final analysis, the proposed combination of Schneider and Vyaznikov does not provide for all of the claim elements in claims 24, 35, and 38. Accordingly, the rejections of claims 24, 25, and 38 should be reversed, along with the rejections of the claims that depend therefrom.

This appeal brief is being filed within two months from January 8, 2004, the filing date of the Notice of Appeal. The brief fee of $330 is enclosed. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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